THE HON'BLE SRI JUSTICE C.V. RAMULU

Monday, 16th day of April,2007

W.P.No.26730 of 1997

Between:-

M. Srinivasa Rao … Petitioner

and

Divisional Security Commissioner,
Railway Protection Force,
South Central Railway,
Vijayawada and another …
Respondents … Respondents

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W.P.No.26730 of 1997

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the action of the respondents in deducting an amount of Rs.951.50 ps from the salary of the petitioner for the month of August,1997, even though Quarter No.111G/Type I, Satyanarayanapuram, Vijayawada, was vacated, as arbitrary and illegal and consequently to direct the respondents not to recover the penal rent from the salary of the petitioner.

It appears, the petitioner while working at Vijayawada was transferred to Visakhapatnam by an Order dated 8-1-1997 of the 1st respondent and he was instructed to report at Visakhapatnam on 9-1-1997 at 10.00 hours for further duties. According to the petitioner, since he suffered from chronic viral Hepatitis, he did not join duty at Visakhapatnam immediately and he could join only on 20-5-1997 and further he had vacated the quarter at Vijayawada on 12-8-1997 and the regular rent from his salary was collected upto August,1997. In spite of this, the respondents proposed to deduct penal rent of Rs.7,611.50 (at Rs.951.50 per month) for the period from 9-1-1997 to 12-8-1997 from the salary of the petitioner. Therefore, this Writ Petition.

A detailed counter affidavit has been filed by the respondents denying the allegations made by the petitioner. It is asserted that as

per the Rules in vogue, the petitioner has to make a written request for retention of the railway quarter immediately on his relief from the place of transfer and obtain approval of the competent authority. Since the petitioner has not done so, he is liable to pay penal rent.

Except the above averment, nothing much is stated in the counter. It is not the case of the respondents that the petitioner was allotted with a quarter in Visakhapatnam and, therefore, he is liable to pay penal rent for the quarter occupied by him at Vijayawada. In fact, the petitioner, as noticed above, did not join duty immediately at Visakhapatnam, since he was suffering from viral Hepatitis and he joined at Visakhapatnam only on 20.5.1997 and thereafter he had vacated the quarter on 12.8.1997. This is not a case where the petitioner overstayed or misused the quarter by not vacating the same. He had vacated the quarter within 2½ months of his joining at Visakhapatnam. Under those circumstances, I am of the opinion that the action of the respondents in proposing to collect the penal rent from the salary of the petitioner is not justified. Therefore, the action of the respondents in collecting the penal rent is declared as arbitrary and illegal. The Writ Petition is thus liable to be allowed.

Accordingly, the Writ Petition is allowed. No order as to costs.

However, this order will not preclude the authorities from collecting usual rent payable by the petitioner for the occupation of the quarter at Satyanarayanapuram, Vijayawada till 12-8-1997, if not already recovered.

16-4-2007

prk